

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

CHESTER COLE,

Plaintiff,

v.

MARY BERGHUIS

Defendant.

Case No. 08-15234

Hon. Lawrence P. Zatkoff

ORDER

This matter is before the Court on Plaintiff's Motion for a Certificate of Appealability [dkt 16].

On November 22, 2010, the Court entered an Order denying Plaintiff's Petition for Writ of Habeas Corpus and Denying a Certificate of Appealability. On May 17, 2012, Plaintiff filed a Motion for Relief from Judgment in connection with his denied Habeas Corpus petition. On June 28, 2012, the Court denied Plaintiff's Motion for Relief from Judgment. On or about July 27, 2012, Plaintiff filed his Notice of Appeal to the Sixth Circuit Court of Appeals. On August 1, 2012, Plaintiff filed the instant Motion seeking a Certificate of Appealability regarding the Court's June 28, 2012, Order denying his Motion for Relief from Judgment.

Federal Rule of Appellate Procedure 22 provides that an appeal may not proceed unless a certificate of appealability (COA) is issued under 28 U.S.C. § 2253. A COA may be issued "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. §2253(c)(2). A plaintiff must show "that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further." *Slack v.*

McDaniel, 529 U.S. 473, 484 (2000) (citation omitted). In this case, the Court concludes that reasonable jurists would not debate that Plaintiff failed to show the Court committed “a clear error of judgment.” Accordingly, Plaintiff’s Motion for a Certificate of Appealability [dkt 16] is DENIED.

IT IS SO ORDERED.

Date: January 25, 2013

s/Lawrence P. Zatkoff
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE